

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2011-092483

10/03/2011

HONORABLE TIMOTHY J. RYAN

CLERK OF THE COURT

L. Wilkins

Deputy

IN RE THE MARRIAGE OF  
JOANN DENARDO

JOANN DENARDO  
1542 E HORSESHOE AVE  
GILBERT AZ 85296

AND

JOSEPH V DENARDO

JOSEPH V DENARDO  
1451 E CLARK DR  
GILBERT AZ 85297

DOCKET-FAMILY COURT-SE  
FAMILY COURT SERVICES-CCC

**DECREE OF DISSOLUTION OF MARRIAGE**

This matter having been taken under advisement on September 21, 2011, and having considered the matters presented, the Court now makes the following findings and enters the following orders:

- A. At the time this action was commenced at least one of the parties was domiciled in the State of Arizona and that said domicile had been maintained for at least 90 days prior to the filing of the Petition for Dissolution of Marriage.
- B. The conciliation provisions of A.R.S. §25-381.09 have either been met or do not apply.
- C. The parties were married on October 12, 1985. By operation of law, the marital community is deemed to have terminated on May 15, 2011.
- D. The marriage is irretrievably broken and there is no reasonable prospect for reconciliation.

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- E. There is minor child, common to the parties, namely: Amanda Denardo, born on July 19, 1999.
- F. Mother is not pregnant.
- G. This court has jurisdiction to determine custody issues pursuant to A.R.S. § 25-1031 as Arizona is the “home state” of the children. In determining custody, the court has considered the provisions of A.R.S. § 25-403(A).
- H. This was not a covenant marriage.
- I. To the extent that it has jurisdiction to do so, the court has considered, approved and made provision for the maintenance of either spouse and the division of property and debts.

Based thereon,

**DISSOLUTION OF MARRIAGE**

**IT IS HEREBY ORDERED** dissolving the marriage of the parties and restoring each party to the status of a single person.

**CUSTODY**

Custody is not at issue, as the Parents have stipulated to joint legal custody.

**IT IS THEREFORE ORDERED** as follows:

- A. The parties are awarded joint legal custody of the minor child.
- B. Each parent is entitled to full and unrestricted access to all medical, dental, prescription and health related records of the child and may secure information from and consult with all health care professionals involved with the minor child. Each party shall keep the other parent informed of the names, addresses and telephone numbers of all health care providers of the child.
- C. Each parent is entitled to full and unrestricted access to all school records, teachers and school officials involved in the child’s schooling.
- D. Both parents shall be listed and identified as contact persons on all records.
- E. In the event of any emergency or urgent circumstance involving the child, the other parent shall be notified as soon as is reasonably possible.

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- F. Each parent shall have the right to attend and participate in school, extra-curricular, conference, organized activity or other similar event in which parents are routinely invited or permitted to attend.
- G. Each parent shall keep the other apprised of his/her home address, home telephone number, employer and address, work telephone number and, if applicable, cellular telephone number and e-mail address.
- H. It is in the furtherance of the child's best interests for the parents to confer and for the views of each parent to be considered. There shall be communication between the parents to address day-to-day and more significant issues. They shall develop their communication by utilizing e-mail as their primary method for communication. This shall afford a method that ensures both accountability and verifiability. Both parties shall maintain and regularly review their e-mail accounts. They shall each respond in a timely fashion, even if such response is merely to acknowledge the receipt of information. Each should print copies of all e-mails received and sent so that if an issue arises in the future that has been addressed through e-mail, each party shall have proof as to what was communicated.
- I. It is anticipated that parental decisions shall be required for major issues in raising the child and in meeting his on-going needs. If/when they arise, the parents shall address the issues. Each shall give good faith consideration to the views of the other. If the decision involves medical or schooling issues, the parties may further elect to seek input from treating physicians or educators. Both parents shall be provided with such input. If the parents cannot agree after making a good faith effort to come to an agreed upon decision, Mother shall have "presumptive decision making authority." This level of authority shall allow Mother the right to make a preliminary decision that she shall then communicate to Father. If Father believes that her decision is contrary to the best interests of the child, he shall have the right to seek review thereof through the Court. Father shall have the burden to demonstrate that the decision made by Mother is contrary to the child's best interests. It shall not be sufficient for him to demonstrate that an alternative decision may have also been in the interest of the child.

**Physical Custody and Parenting Time** – As part of the joint legal custody award, Mother shall be designated as the primary residential parent. Father's parenting time shall be as follows:

1. **Regular Access** – The parties agreed to a parenting time schedule on August 18, 2011 in part. In addition, Father shall have every other weekend of parenting time.

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Father shall have from Friday after school until Sunday evening when Father shall return the child to Mother at 6:00 p.m. Father shall take the minor child to her dance classes on Saturdays.

2. **Holidays** - The parties shall utilize the following schedule which shall take priority over the regular or summer access schedule:
  - a. Christmas shall be divided into two segments. The first shall begin on December 24<sup>th</sup> at noon and continue until December 25<sup>th</sup> at noon. The second segment shall begin on December 25<sup>th</sup> at noon and continue until December 26<sup>th</sup> at noon. In each even-numbered year, Father shall be entitled to the first segment and Mother shall be entitled to the second segment. In each odd-numbered year Mother shall have the first segment and Father shall have the second segment.
  - b. Thanksgiving shall be alternated each year. It shall begin at 6:00 p.m. on Wednesday night and continue until the regular exchange time on Friday. Thereafter, the parent entitled to that weekend under the alternating weekend schedule shall have the remainder of the weekend. In even-numbered years, Mother shall be entitled Thanksgiving and Father entitled to Thanksgiving in odd-numbered years.
  - c. July 4<sup>th</sup> shall begin at 9:00 a.m. and continue until 9:00 a.m. on July 5<sup>th</sup>. The child shall be with Father in odd-numbered years and with Mother in even-numbered years.
  - d. Each year, the child shall be with Mother on Mother's Day from 9:00 a.m. until 6:00 p.m. and with Father on Father's Day from 9:00 a.m. until 6:00 p.m.
  - e. The child shall be with Mother for Easter Sunday in even-numbered years from 9:00 a.m. until 6:00 p.m. and with Father for this same time period in odd-numbered years.
  - f. Monday holidays shall be assigned to the parent who is entitled to that weekend under the alternating weekend schedule. Therefore, if it is Father's weekend and there is a Monday holiday attached thereto, the return of the child to Mother shall be on Monday evening rather than Sunday evening.

Father shall be responsible for the pick-up of the child at the start of any access time assigned to him and Mother shall be responsible for the pick-up of the child at the end of Father's parenting time.

Each parent is entitled to exercise one separate three week vacation with the children each summer. Notice of the intention to exercise vacation time shall be provided, in writing (via

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email) by no later than sixty (60) days in advance. For travel, a full written itinerary shall be provided to the other parent at least fourteen (14) days before departure. The itinerary shall include mode of transportation, destinations, accommodations and telephone numbers.

Neither parent shall relocate the residence of the child outside of Arizona without prior written consent of the other parent or court order.

Each parent is entitled to have reasonable telephone communication with the child. It is the responsibility of the parent with whom the child is physically present to assist in facilitating such telephone communication.

**CHILD SUPPORT**

For child support purposes, the Court makes the following findings included in exhibit 7 at Trial:

Mother's Income	\$ 803.00
Father's Income	\$10,126.22
Adjustments to Father's Income	\$ (2,800.00)
Adjustments to Mother's Income	\$ 2,800.00
Basic Support Obligation	\$ 1,216.00
Over 12 Adjustment	\$ 121.60
Health Insurance Paid by Father	\$ 55.00
Parenting Time Adjustment (140 days)	25.3%

In applying these findings under the Arizona Child Support Guidelines,

**IT IS ORDERED that Father shall pay child support to Mother in the total amount of \$570.86 per month, commencing October 1, 2011.** All payments shall be made directly to Mother, per the agreement of the parties.

All obligations for child support for each shall terminate when the child each attain the age of 18 years or is otherwise emancipated, but in the event any child attains the age of 18 years while attending high school, support shall continue to be provided during the period in which said child is actually attending high school but only until the child reaches 19 years of age. Provisions for health insurance and non-insured health expenses for the child, as provided for below, shall be deemed to be additional child support and shall be enforceable as such.

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Pursuant to A.R.S. §25-503(I), the right of a parent, guardian or custodian to receive child support payments as provided herein vests as each installment falls due. Each vested child support installment is enforceable as a final judgment by operation of law.

**EXCHANGE OF INCOME INFORMATION**

The parties shall exchange income information every 24 months from the date of the entry of the Decree of Dissolution of Marriage for so long as Father has an obligation to pay child support. Said financial information shall include, but not be limited to: personal tax returns with all schedules, affidavits of financial information, earning statements and other such documentation necessary to establish or prove the income of either party. In addition, at the time of the exchange of financial information, the parties shall also exchange residential addresses and the names and addresses of their respective employers.

**CHILD'S INSURANCE**

**IT IS ORDERED** that Father shall maintain medical insurance for the minor child. Father shall ensure that Mother is kept informed at all times of the name and address of the insurance provider as well as the policy number. Additionally, Father shall provide Mother with valid insurance cards and policy information and update information changes.

**IT IS FURTHER ORDERED** that any non-covered medical, dental, orthodontic, optical, prescription expenses as well as deductibles and co-pays shall be paid 2/3 by Father and 1/3 by Mother.

**DEPENDENCY EXEMPTION**

**IT IS ORDERED** that Father may claim the minor child in odd years, and Mother may claim the minor child in even years.

**IT IS FURTHER ORDERED** that each party shall execute any IRS forms required in order to implement these terms, including IRS Form 8332.

**IT IS FURTHER ORDERED** that Father's right to claim the exemption in any given year is conditioned upon payment by Father by December 31<sup>st</sup> of the total Court-ordered monthly child support obligation for that calendar year and any Court ordered arrearage payments due during the calendar year for which the exemption is to be claimed.

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**PROPERTY**

Each party shall retain as his or her sole and separate property any furniture, furnishings, appliances, tools, art work, collectibles, and related personal property in that party's possession.

Each party shall retain as his or her sole and separate property any disclosed savings, checking or other financial account held in that party's name.

Mother is awarded the 2008 Toyota Tundra vehicle subject to her being solely responsible for any loans or financial obligations associated therewith. Mother is awarded all personal property not expressly awarded to Father below.

Father is awarded the vehicle currently in his possession, if any, subject to him being solely responsible for any loans or financial obligations associated therewith. Father is awarded the air compressor, mechanics tools and toolbox, the stereo turntable, the vinyl record collection, one office desk and its contents, two office bookcases, two office cabinets and their contents, one file cabinet and its contents, one ergonomic office chair, the HP all-in-one printer, all drill and bit sets, the Belkin Wireless Router, one queen sized bed, and one bedroom dresser.

The parties shall divide all existing 401(k) plans and retirement accounts in half. If necessary, the parties shall execute Qualified Domestic Relations Orders to distribute these accounts, and shall bear the expenses equally. The accounts currently identified by the parties include the Fidelity 401K account, the IBM pension, and the HP Pension under Fidelity.

**DEBTS**

**IT IS ORDERED** that Father shall be responsible for, indemnify and hold Mother harmless from the following debts and financial obligations:

- A. Unless otherwise provided herein, any financial obligations associated with or arising from any property awarded to Father herein.
- B. Any debts or financial obligations incurred by Father after the date of service of process.
- C. All of the 2010 taxes still due and owing to the Internal Revenue Service.
- D. The Wells Fargo Student Loan.

**IT IS FURTHER ORDERED** that Mother shall be responsible for, indemnify and hold Father harmless from the following debts and financial obligations:

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- A. Unless otherwise provided herein, any financial obligations associated with or arising from any property awarded to Mother herein.
- B. Any debts or financial obligations incurred by Mother after the date of service of process.
- C. The following items of unsecured credit: the American Express, the CitiBank MasterCard account, the Wells Fargo Visa card accounts, the Sears MasterCard accounts, the DSRM Valero account, the HSBC Orchard Bank MasterCard account, the Shell MasterCard account through Citibank, the Chevron card, the Kohl's credit card account, the Dillard's American Express account, the Fashion Bug account, the Wal-mart account, the Fingerhut account, the JC Penney account, the Macy's account, and the Target account.

**SPOUSAL MAINTENANCE**

The determination of spousal maintenance is controlled by A.R.S. Section 25-319. Husband agrees that some spousal maintenance is appropriate, but the parties could not agree as to the amount of spousal maintenance and the duration.

The issues of amount and duration are controlled by subsection (B) of A.R.S. Section 25-319. It details pertinent factors to be considered. Those factors along with this Court's findings based thereon are as follows:

- 1. *The standard of living established during the marriage.* **The parties enjoyed a modest but comfortable standard of living, much of which was funded by taking on excessive debt.**
- 2. *The duration of the marriage.* **The marriage is one of long duration.**
- 3. *The age, employment history, earning ability and physical and emotional condition of the spouse seeking maintenance.* **Wife will not be able to retrain to earn the income of Husband.**
- 4. *The ability of the spouse from whom maintenance is sought to meet that spouse's needs while meeting those of the spouse seeking maintenance.* **Husband listed in his Child Support Worksheet that he can afford \$2,800.00 in spousal maintenance.**
- 5. *The comparative financial resources of the spouses, including their comparative earning abilities in the labor market.* **Neither party has financial resources other than their earning ability in the labor market.**



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6. *The contribution of the spouse seeking maintenance to the earning ability of the other spouse. **This is not a relevant factor in this case.***
7. *The extent to which the spouse seeking maintenance has reduced that spouse's income or career opportunities for the benefit of the other spouse. **This is not a relevant factor in this case.***
8. *The ability of both parties after the dissolution to contribute to the future educational costs of their mutual children. **Husband will have the greater ability to contribute to the future educational costs of their child.***
9. *The financial resources of the party seeking maintenance, including marital property apportioned to that spouse, and that spouse's ability to meet that spouse's own needs independently. **Husband testified that he is having considerable difficulty making his own bills while paying child support and spousal maintenance.***
10. *The time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment and whether such education or training is readily available. **Wife will not be able to obtain sufficient education or training to enable her to seek appropriate employment.***
11. *Excessive or abnormal expenditures, destruction, concealment or fraudulent disposition of community, joint tenancy and other property held in common. **This is not a relevant factor in this case.***
12. *The cost for the spouse who is seeking maintenance to obtain health insurance and the reduction in the cost of health insurance for the spouse from whom maintenance is sought if the spouse from whom maintenance is sought is able to convert family health insurance to employee health insurance after the marriage is dissolved. **Wife did not present evidence on this issue.***
13. *All actual damages and judgments from conduct that results in criminal conviction of either spouse in which the other spouse or child was the victim. **This is not a relevant factor in this case.***

Based upon these findings,

**IT IS ORDERED** that **Husband** shall pay directly to **Wife** spousal maintenance in the amount of **\$2,800.00 per month, commencing on October 1, 2011.**

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All spousal maintenance paid by Husband to Wife shall be tax deductible for Husband and shall be deemed income to Wife for income tax purposes. Further, the award shall be modifiable as to amount and duration in accordance with A.R.S. Section 25-327. It shall terminate upon the death of either party or remarriage of Wife.

**IT IS FURTHER ORDERED** signing this minute entry as a formal order of this Court pursuant to Rule 81(D), Arizona Rules of Family Law Procedure.

/s/ HONORABLE TIMOTHY J. RYAN

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HONORABLE TIMOTHY J. RYAN  
JUDICIAL OFFICER OF THE SUPERIOR COURT

**FILED:** *Exhibit Worksheet*

**PLEASE NOTE:** This Court utilizes a digital audio recording system to preserve the official record of proceedings. Persons requesting copies of recorded proceedings may call the 24 hour call in line at (602) 506-7100 for complete instructions.

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.